

The opinion in support of the decision being entered today was not written  
for publication and is not binding precedent of the Board

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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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THOMAS A. MILLER  
and DARREL C. PINKSTON

Junior Party  
(Patent No. 5,865,232)<sup>1</sup>

v.

ROBERT D. BRAND

Senior Party  
(Application 09/377,120)<sup>2</sup>

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Patent Interference No. 105,215

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Before MARTIN, LEE and MOORE, Administrative Patent Judge.

LEE, Administrative Patent Judge.

**Judgment -- Bd. R. 127**

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<sup>1</sup> Based on Application 08/813,669, filed March 7, 1997. The real party in interest is Miller Veneers, Inc. Accorded the benefit of Provisional Application 60/013035, filed March 8, 1996.

<sup>2</sup> Filed August 19, 1999. The real party in interest is Indiana Forge, LLC. Accorded the benefit of Application 09/245,954, filed February 5, 1999; Application 08/752,800, filed November 20, 1996; Application 08/685,207, filed July 23, 1996; and Application 08/455,479, filed May 31, 1995.

Interference No. 105,215  
Miller v. Brand

1           On August 25, 2005, we entered judgment as to the subject matter of the count against  
2 senior party ROBERT D. BRAND, and held that senior party ROBERT D. BRAND was not  
3 entitled to claim 38 of its involved Application 09/377,120.

4           The senior party appealed the judgment to the Court of Appeals for the Federal Circuit.

5           On May 14, 2007, the Court of Appeals for the Federal Circuit reversed and ordered that  
6 judgment be entered for senior party ROBERT D. BRAND.

7           Accordingly, it is

8           **ORDERED** that judgment on priority as to the subject matter of Count 1 is herein  
9 entered in favor of senior party ROBERT D. BRAND, and against junior party  
10 THOMAS A. MILLER and DARREL C. PINKSTON;

11           **FURTHER ORDERED** that junior party THOMAS A. MILLER and DARREL C.  
12 PINKSTON is not entitled to claim 1 of its involved Patent No. 5,865,232, and that senior party  
13 ROBERT D. BRAND, on this record, is entitled to claim 38 of its involved Application  
14 09/377,120;

15           **FURTHER ORDERED** that if there is a settlement agreement, the parties should note  
16 the requirements of 35 U.S.C. § 135(c) and Bd. Rule 205; and

17           **FURTHER ORDERED** that a copy of this judgment be placed in the respective  
18 involved application or patent of the parties.

Interference No. 105,215  
Miller v. Brand

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/s/John C. Martin )  
JOHN C. MARTIN )  
Administrative Patent Judge )  
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/s/Jameson Lee )  
JAMESON LEE )  
Administrative Patent Judge )  
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 )  
/s/James T. Moore )  
JAMES T. MOORE )  
Administrative Patent Judge )

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APPEALS AND  
INTERFERENCES

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